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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,077	06/23/2004	Stephen Proulx	MCA-589A PC/US	5860
25182	7590	11/16/2006	EXAMINER	
MILLIPORE CORPORATION 290 CONCORD ROAD BILLERICA, MA 01821			BOUCHELLE, LAURA A	
			ART UNIT	PAPER NUMBER
			3763	
DATE MAILED: 11/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/500,077

Applicant(s)

PROULX ET AL.

Examiner

Laura A. Bouchelle

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4,5 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 2, 4, 5, 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leason et al (US 5360413) in view of Tessman et al (US 6210372).
3. Leason discloses and access device comprising a body 12 having a bore 15 that passes through the entire length of the body, a moveable plunger 18 having a first and second end contained within the bore, wherein the body 12 has a first end 6 and a second end 8, the first end being connected to an upstream component, and the second end being connected to a downstream component. See Figs. 3 and 7. Leason further discloses that when the plunger is in a closed position, the first end of the plunger is in alignment with the face of the body, forming a steamable surface and a sterile barrier for the interior of the body and the downstream components (Col. 3, line 56-68). The device further comprises a seal 20 formed between the plunger and the bore, and the first face includes a sanitary flange 25.
4. Claims 1 and 11 differ from Leason in calling for the device to be formed of plastic. Claim 5 differs in calling for the device to be formed of polyetherimides. Tessman discloses a storage and delivery device for a catheter or needle wherein the device is made using

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thermoplastics such as polyetherimide that have high hardness and strength and can withstand sterilization (Col. 6, lines 55-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to form the device of Leason of a thermoplastic such as polyetherimide so that the device would be able to withstand sterilization.

### ***Response to Arguments***

5. Applicant's arguments filed 1/23/06 have been fully considered but they are not persuasive. Applicant argues that the combination of Leason and Tessman does not teach applicant's invention because the combination would render Leason unworkable. Examiner disagrees. First, it is obvious and well known in the art to form medical devices from plastic due to the ease of manufacture, low cost, and sterilibility. Secondly, the Leason device would work equally well with a plastic plunger, and in fact, relies on a pin to provide the rigidity that the material Leason discloses lacks. Therefore, it would not only be obvious, but would make the device simpler and easier to manufacture if the plunger was formed of a harder plastic material as taught by Tessman.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125.

The examiner can normally be reached on Monday-Friday 8-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle  
Examiner  
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